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HOUSE BILL 709

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Joseph Cervantes

AN ACT

RELATING TO COMMUNICABLE DISEASES; ENACTING AND ENTERING INTO
THE INTERSTATE COMPACT ON THREATENING COMMUNICABLE DISEASES;
GRANTING CERTAIN POWERS; IMPOSING CERTAIN DUTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. INTERSTATE COMPACT ON THREATENING COMMUNICABLE
DISEASES--ENTERED INTO.--The "Interstate Compact on Threatening
Communicable Diseases" is enacted into law and entered into
with all other jurisdictions legally joining therein in the
form substantially as follows:

THE INTERSTATE COMPACT ON THREATENING COMMUNICABLE DISEASES

ARTICLE I

Findings and Purpose

The party states find that the proper and expeditious
treatment of persons infected with threatening communicable

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1 diseases can be facilitated by cooperative action, to the
2 benefit of the patients, their families and society as a whole.
3 Further, the party states find that the necessity of and
4 desirability for furnishing such care and treatment bears no
5 primary relation to the residence of the patient but that, on
6 the contrary, the controlling factors of community safety and
7 humanitarianism require that facilities and services be made
8 available for all who are in need of them. Consequently, it is
9 the purpose of this compact and of the party states to provide
10 the necessary legal basis for the appropriate care and
11 treatment of the persons with threatening communicable diseases
12 under a system that recognizes the paramount importance of
13 patient welfare and to establish the responsibilities of the
14 party states in terms of such welfare.

15 ARTICLE II

16 Definitions

17 As used in this compact:

18 A. "sending state" means a party state from which a
19 patient is transported pursuant to the provisions of the
20 compact or from which it is contemplated that a patient may be
21 so sent;

22 B. "receiving state" means a party state to which a
23 patient is transported pursuant to the provisions of the
24 compact or to which it is contemplated that a patient may be
25 transported;

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1 C. "institution" means any hospital or other
2 facility maintained by a party state or political subdivision
3 thereof for the care and treatment of patients with threatening
4 communicable diseases;

5 D. "patient" means any person who has voluntarily
6 consented to detention and treatment or who has been ordered by
7 a court pursuant to the Public Health Act or the Public Health
8 Emergency Response Act to be detained and treated because of
9 infection with a threatening communicable disease;

10 E. "state" means any state, territory or possession
11 of the United States, the District of Columbia and the
12 commonwealth of Puerto Rico; and

13 F. "threatening communicable disease" means a
14 disease that causes death or great bodily harm, passes from one
15 person to another and for which there is no means by which the
16 public reasonably can avoid the risk of contracting the
17 disease.

18 ARTICLE III

19 Eligibility and Transfer

20 A. Whenever a person physically present in any
21 party state shall be in need of hospitalization by reason of
22 infection with a threatening communicable disease, he shall be
23 eligible for care and treatment in an institution irrespective
24 of his residence, subject to the availability of appropriations
25 and bed space for that purpose.

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1 B. The provisions of Subsection A of this article
2 to the contrary notwithstanding, any patient may be transferred
3 to an institution in another state whenever there are factors
4 based upon clinical determinations indicating that the care and
5 treatment of the patient would be facilitated or improved
6 thereby. The sending state shall bear the costs of the care
7 and treatment provided in the receiving state, pursuant to a
8 written agreement between the states. Any such hospitalization
9 may be for the entire period of care and treatment or for any
10 portion or portions thereof. The factors referred to in this
11 subsection shall include the patient's full record with due
12 regard for the location of the patient's family, character of
13 the threatening communicable disease and probable duration
14 thereof and such other factors as shall be considered
15 appropriate.

16 C. No state shall be obliged to receive any patient
17 sent under Subsection B of this article unless the sending
18 state has given advance notice of its intention to send the
19 patient; conducted a medical examination of the patient;
20 furnished all available medical and other pertinent records
21 concerning the patient in accordance with the federal Health
22 Insurance Portability and Accountability Act of 1996 and other
23 applicable patient privacy laws and rules; and given the
24 qualified medical or other appropriate clinical authorities of
25 the receiving state an opportunity to examine the patient if

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1 the authorities so wish; and unless the receiving state shall
2 agree to accept the patient.

3 D. In the event that the laws of the receiving
4 state establish a system of priorities for the admission of
5 patients, an interstate patient under this compact shall
6 receive the same priority as a local patient and shall be taken
7 in the same order and at the same time that he would be taken
8 if he were a local patient.

9 E. Under this compact, the determination as to the
10 suitable place of hospitalization for a patient may be reviewed
11 at any time and such further transfer of the patient may be
12 made as seems likely to be in the best interest of the patient.

13 ARTICLE IV

14 Transporting

15 The duly accredited officers of any state party to this
16 compact, upon the establishment of their authority and the
17 identity of the patient, may transport any patient being moved
18 under this compact through any and all states party to this
19 compact, without interference.

20 ARTICLE V

21 Effect and Cost of Transfer

22 A. No person shall be deemed a patient of more than
23 one institution at any given time. Completion of transfer of
24 any patient to an institution in a receiving state shall have
25 the effect of making the person a patient of the institution in

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1 the receiving state.

2 B. The sending state shall pay all costs of and
3 incidental to the transportation and care of any patient under
4 this compact, but any two or more party states may, by making a
5 specific agreement for that purpose, arrange for a different
6 allocation of costs as among themselves.

7 C. No provision of this compact alters or affects
8 any internal relationships between the departments, agencies
9 and officers of and in the government of a party state, or
10 between a party state and its subdivisions, as to the payment
11 of costs, or responsibilities therefor.

12 D. Nothing in this compact prevents any party state
13 or subdivision thereof from asserting any right against any
14 person, agency or other entity in regard to cost for which such
15 party state or subdivision thereof may be responsible pursuant
16 to any provision of this compact.

17 E. Nothing in this compact invalidates any
18 reciprocal agreement between a party state and a nonparty state
19 relating to care or treatment of the person with the
20 threatening communicable disease, or any statutory authority
21 pursuant to which such agreements may be made.

22 ARTICLE VI

23 Compact Administrator

24 Each party state shall appoint a "compact administrator"
25 who, on behalf of his state, shall act as general coordinator

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1 of activities under the compact in his state and who shall
2 receive copies of all reports, correspondence and other
3 documents relating to any patient processed under the compact
4 by his state either in the capacity of sending or receiving
5 state. The compact administrator or his duly designated
6 representative shall be the official with whom other party
7 states shall deal in any matter relating to the compact or any
8 patient processed under the compact.

9 ARTICLE VII

10 Supplementary Agreements

11 The duly constituted administrative authorities of any two
12 or more party states may enter into supplementary agreements
13 for the provision of any service or facility or for the
14 maintenance of any institution on a joint or cooperative basis
15 whenever the states concerned shall find that such agreements
16 will improve services, facilities or institutional care and
17 treatment in the fields of threatening communicable diseases.
18 No supplementary agreement shall be construed so as to relieve
19 any party state of any obligation that it otherwise would have
20 under other provisions of this compact.

21 ARTICLE VIII

22 Entry into Force

23 This compact shall enter into full force and effect as to
24 any state when enacted by it into law and such state shall
25 thereafter be a party to the compact with any and all states

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1 facilitating the proper administration of the compact or of any
2 supplementary agreement entered into by this state under the
3 compact.

4 Section 3. SUPPLEMENTARY AGREEMENTS.--The compact
5 administrator may enter into supplementary agreements with
6 appropriate officials of other states under Article VII of the
7 compact. In the event that the supplementary agreements shall
8 require or contemplate the use of any institution or facility
9 of this state or require or contemplate the provision of any
10 service by this state, no agreement shall have force or effect
11 until approved by the head of the agency under whose
12 jurisdiction the institution or facility is operated or whose
13 agency will be charged with the rendering of the service.

14 Section 4. PAYMENTS BY ADMINISTRATOR.--The compact
15 administrator may make or arrange for any payments necessary to
16 discharge any financial obligations imposed upon this state by
17 the compact or by any supplementary agreement entered into
18 under the compact.

19 Section 5. NOTICE OF TRANSFER.--Whenever the compact
20 administrator receives a request for the transfer of a patient
21 from an institution in this state to an institution in another
22 party state, and determines that the transfer is in the best
23 interest of the patient, the administrator shall give notice of
24 the proposed transfer to the patient. This notice shall also
25 notify the patient of the right, if requested, to a court

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1 hearing on the proposed transfer and shall contain a request
2 for written consent from the patient for the transfer. The
3 notice shall be in writing, and the patient shall be given
4 twenty-three days from the date of mailing of the notice to
5 consent or object to the transfer, or to request a court
6 hearing. No transfer shall be made if there is a written
7 objection or request made to the compact administrator except
8 upon order of the court after an evidentiary hearing. A
9 patient who makes a written objection to the transfer and
10 requests a court hearing is entitled to representation by
11 counsel at the court hearing at which the sending party must
12 show by clear and convincing evidence that it is in the best
13 interest of the patient to be transferred to an institution in
14 the receiving state, based on the factors enumerated in
15 Subsection B of Article III of the Interstate Compact on
16 Threatening Communicable Diseases. Counsel may be retained by
17 the patient or shall be appointed by the court if the court
18 determines that the patient cannot afford representation or if
19 the court determines that appointment of counsel is required in
20 the interest of justice. No transfer shall be made of a
21 patient ordered hospitalized by any court unless written notice
22 of the proposed transfer has been given to that court.

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